

### **III. REMARKS**

Claims 1-34 are pending in this application. By this response, no claims have been amended or canceled. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed in this paper. Furthermore, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

It is noted that the Office Action indicates that Applicants' submission of February 12, 2007 has been entered (Office Action at p. 2, "Detailed Action"), and that claims 1-24 were pending, and 1, 11, and 15 were amended (*Id.* at "Status of Claims) as of the Office Action's date of June 28, 2007. In the interest of clarity, Applicants wish to confirm that claims 1-34 are pending, and the amendments of February 12, 2007 to claims 25 and 34 have also been entered. For purposes of this response, Applicants will assume this to be the case, however, clarification is respectfully requested.

Claims 1-21, 23-28, and 30-34 are rejected under 35 U.S.C. § 102(e) as being anticipated by Brown et al. (US Patent Publication No. 2002/0065766 A1, hereinafter, "Brown"). With regard to claim 1, Applicants respectfully submit that Brown fails to disclose each and every feature of the claimed invention, including, for example, a system for implementing an electronic marketplace via a network, including "a market maker that receives orders for a series of call auctions from a plurality of nodes in the network, wherein each of the orders includes a time stamp from one of a plurality of agents residing within the network indicating a time that precedes the order being received by the market maker" (emphasis added).

Brown discloses a system which commences with a Pre-Processing Module's receipt and storage of transaction data (¶ 0053). This Pre-Processing Module transmits objects that it creates from the data to the Marketspace Module (¶ 0053), which holds or stores the objects (¶ 0058) for retrieval and verification by the Execution Engine (¶ 0061). The Execution Engine, which is analogous to the market maker in the claimed invention, then runs a matching algorithm, executes transaction data, and records transaction outcomes. (*Id.*) With specific respect to timing, Brown discloses that it is the execution engine which "determines whether the time has expired" in markets where the structure can be defined as discrete (rather than continuous). If time has expired in such a market, the execution engine advances to the Create phase, and if time has not expired, the Execution Engine transmits the bid object back to the Marketspace Module and pulls a new object from the Marketspace Module (¶ 0065). Brown further discloses that during the Match Phase, which follows, the Execution Engine uses a basic matching algorithm to sort all buyer bids by, e.g., time stamp, ensuring that all bid values increase in value in the case of an English auction. (¶ 0067.) Brown does not specify, however, when or by what mechanism such a time stamp might be generated. It is unclear whether it is generated by the Pre-Processing Module, the Marketspace Module, the Executing Engine, or at another phase in the process. However, Brown clearly does not teach a time stamp that "precedes the order being received by the market maker." Based on the context of the written description, it appears that the time stamp is generated by the Execution Engine itself, as the use of a time stamp is only discussed among the features of the Execution Engine. Thus, Brown does not teach the feature of a time stamp which "indicates a time that precedes the order being received by the market maker" (claim 1, lines 4-6 (emphasis added)), because Brown instead teaches the use of a time stamp subsequent to "the order being received."

With respect to independent claims 11, 15, 25, and 34, Applicants note that these claims include features similar in scope to those already addressed above with respect to claim 1. (See claim 11 at lines 4-6; claim 15 at lines 6-7 and 9-10; claim 25 at lines 9-11; and claim 34 at lines 5-6.) Further, the Office relies on the same arguments and interpretations of Brown as discussed above with respect to claim 1. To this extent, Applicants herein incorporate the arguments presented above with respect to claim 1, and respectfully request withdrawal of the rejections of claims 11, 15, 25, and 34 under § 102(e) for the above-stated reasons.

With respect to dependent claims 2-10, 12-14, 16-24, and 26-33, Applicants respectfully submit that these claims are allowable for reasons stated above relative to independent claims 1, 11, 15, and 25, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 102(e) to claims 2-10, 12-14, 16-24, and 26-33.

In the Office Action, claims 14, 16-21 and 23-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Madoff et al. (US Patent Publication No. 2002/0019795 A1, hereinafter “Madoff”), and claims 22 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Brown in view of Madoff, and further in view of Sheynblat et al. (U.S. Patent No. 6,839,021). Applicants respectfully submit that these claims are allowable for reasons stated above relative to independent claims 11, 15, and 25 respectively, as well as for their own additional claimed subject matter. Accordingly, Applicants respectfully request that the Office withdraw the rejections under 35 U.S.C. § 103(a) to claims 14, 16-24, and 29.

#### **IV. CONCLUSION**

In light of the above remarks, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

Date: September 28, 2007



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